



NIXON PEABODY LLP
ATTORNEYS AT LAW

NIXONPEABODY.COM
@NIXONPEABODYLLP

Eric C Jeffrey
Counsel
ejeffrey@nixonpeabody.com

Nixon Peabody LLP
799 9th Street NW
Suite 500
Washington, DC 20001-4501
202-585-8000

September 2, 2016

VIA EMAIL AND FIRST CLASS MAIL

Ms. Rachel Dickon
Assistant Secretary of Federal Maritime Commission
800 North Capitol St.
Room 1046
Washington, D.C. 20573

Re: Docket No. 15-11 – Ovchinnikov v. Hitrinov

Dear Ms. Dickon:

Enclosed for filing in the above-captioned matter are an original true copy and five (5) additional copies of:

1. Respondents' Reply to Complainants' Motion for Who Knows What

If you have any questions, please do not hesitate to contact me.

Sincerely,

Eric C. Jeffrey

Enclosures

FEDERAL MARITIME COMMISSION

WASHINGTON, D.C.

DOCKET NO. 15-11

IGOR OVCHINNIKOV, ET AL

v.

MICHAEL HITRINOV ET AL

Consolidated With
DOCKET NO. 1953(I)

KAIRAT NURGAZINOV, ET AL

v.

MICHAEL HITRINOV ET AL

RESPONDENTS' REPLY TO
COMPLAINANTS' MOTION FOR WHO KNOWS WHAT

Earlier today, undersigned Counsel for Respondents filed a status report advising the Commission of a threatening email sent to him by Complainants' Counsel. In response to the electronic service copy to Mr. Nussbaum, I received an out-of-office auto-response stating that Mr. Nussbaum's office is closed:

"Please be advised that the Law Office of Marcus A. Nussbaum, Esq. is closed at this time, to reopen Tuesday, September 6, 2016 at 9:00 a.m. No emails will be received, read, or opened until such time."

Despite this typical abuse of his out-of-office responses, Mr. Nussbaum himself (or probably Mr. Katz) popped up scant hours later with a bizarre motion (erroneously captioned a status report)

asking incomprehensible relief of various sorts.¹ As to that, I will gladly take a competency test if it applies to Mr. Nussbaum and Mr. Katz as well.

Before addressing the merits, let me say that I am quite serious in considering a reference to the police (law enforcement, not the band). I have a meeting with counsel about that this afternoon. If I decide to take that route, I will let law enforcement determine whether the email was a threat as I perceive, or a light-hearted prank, as Complainants' Counsel now suggests.²

I have no idea where Complainants' Counsel gets the odd notion that status reports must be requested by the Presiding Officer or the Commission. Certainly they may be requested, but they have never been so limited in the twenty-three years I have practiced before the Commission. Indeed, I was recently reminded in another FMC proceeding that a status report, requested or not, is the way to advise a Presiding Officer of developments where no relief is requested:

"Please be advised that pursuant to the Initial Order, letter and email filings will not be accepted. To ensure that filings are properly docketed, all filings should be in the form of a status report or a motion if requesting action.

Thank you,

Office of Administrative Law Judges
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573-0001
Tel: 202-523-5750
Fax: 202-566-0042
Email: judges@fmc.gov³

Further, for what Complainants' Counsel would call the "umpteenth" time, Mr. Nussbaum/Katz makes totally unsupported claims about alleged violations of the FMC Rules by the undersigned, and for the "umpteenth" time demonstrates none. Complainants' Counsel, on the other hand, have by their own admission flouted the rules multiple times just in the past few

¹ Because it asks for various orders, the "status report" is by rule a motion, as explained to Complainants' Counsel many times.

² Complainants' Counsel has never before sent any sort of lighthearted prank to the undersigned, but plenty of bullying emails.

³ May 3, 2016 Email from the FMC Office of Administrative Law Judges to the undersigned and other Counsel in Docket No. 16-07 in response to an unsolicited status report filed as a letter.

weeks, and continue to do so at an accelerating pace. They have filed two motions without prior conferral or even a report on any attempt to confer, and thrice filed unauthorized responses without requesting leave to do so. Indeed, they have recently filed two unauthorized replies regarding the very same motion.

Respondents do not suggest what, if any, relief is appropriate, as they seek none. It is up to the Presiding Officer to decide sua sponte whether to issue any sort of Order.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Eric Jeffrey", written over a horizontal line.

Eric Jeffrey

Nixon Peabody LLP

799 9th Street, N.W., Suite 500

Washington, D.C. 20001

202-585-8000

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Respondents' Reply to Complainants' Motion for Who Knows What by email and first class mail to the following:

Marcus A. Nussbaum, Esq.
P.O. Box 245599
Brooklyn, NY 11224
Marcus.nussbaum@gmail.com

Seth M. Katz, Esq.
P.O. Box 245599
Brooklyn, NY 11224

Date: September 2, 2016


Eric Jeffrey
Counsel for Respondents